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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/754,505

01/12/2004

Reiner Dörner

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01/27/2006

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EXAMINER

ADAMS, GREGORY W

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



## **DETAILED ACTION**

### ***General Comments***

This application has been transferred to Examiner Gregory W. Adams.

### ***Claim Rejections - 35 USC § 112***

Claims 5, 7 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 5 & 9 include the phrase "and/or" in line 2 which is unclear. It can be – and-- or –or--, but not both.

The phrase "conveying means of the longitudinal conveying means are opposite to each other" in claim 7 is unclear.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2-10 & 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Schmitt (US 5,096,179).

- Schmitt discloses a singling device comprising two tendering positions 6, 7, longitudinal conveying means 12, lifting means 9, 10 (C1/L23-26), conveyor belt 12, sensor (C3/L66);

- multiple positions including a first tendering position 6, 7 and a reject deposition position;
- second longitudinal position 6;
- lifting means 9 (C1/L23-26) and pull-apart means 10;
- conveyor belt 12;
- detection means (C3/L66);
- transport carriage 8; and
- second longitudinal conveying means.

### ***Response to Arguments***

Applicant's arguments filed November 15, 2005 have been fully considered but they are not persuasive.

In response to applicant's argument that Schmitt does not disclose a bridging conveyor, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. For example, Applicant argues that a "...conveying means is moved away from the working site to clear the second tendering position..." does not further limit the claim, describing the use thereof. Schmitt discloses two tendering positions and a conveying means that bridges such that when retrieving from one position the other is open and waiting to be accessed "the advantage of this design is that it is possible for full piles of sheets to be moved into the sheet feeder by means of the appropriate conveying equipment without it being

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necessary for piles of sheets to be deposited manually by the operator.” (C2/L17-22)

Thus, Schmitt’s apparatus will access two tendering position, one of which is always open and will move to bridge between two positions.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th, 8:30-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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GWA



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